1949 **File No.** O. Trade Unions/49

Legal Department

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**Subject:—**

Opinions under the Indian Trade Union Act - 1926

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# C O N T E N T S.

Legal Department File No. O.Trade Unions/49

| Serial No. | R.I./O.No. | Subject | Pages |
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| | | **Indian Trade Union Act, 1926.** | |
| 1 | R.I.No. 10603/23-8-48<br>O.No. 10881/28-9-49 | Whether in view of the fact that associations of Govt. servants both industrial and non-industrial, can now seek statutory recognition under the provision of the Act as amended by Act of 1947, Govt. can lay down conditions for recognition of the unions in pursuance of the provisions of the Govt. servants conduct, Discipline and Appeal Rules. | 1-6 |

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Office of the P.L.A.

The question raised for the P.L.A.'s consideration is whether, in view of the fact that associations of both Government servants, both industrial and non industrial, as any other trade unions, can now seek statutory recognition under the provisions of the Indian Trade Unions Act, as amended by the Amendment Act of 1947, Government can lay down conditons for recogntion of the unions in pursuance of the provisions of the Government Servants Conduct, Discipline and Appeal Rules, although such conditions are not prescribed in the Trade Unions Act for their entitlement to recognition and if, in the event of any unions not accepting the conditions as laid down by Government and going to the Labour Court, whether the Court will uphold the claims of the union concerned to get recognition.

2 It is not quite clear whether the rules now in force for the recognition of associations of industrial employees or non-industrial employees are statutory rules. The authority for making statutory rules is contained in section 241(2)(b) of the Government of India Act, 1935. The Bombay Civil Services Conduct, Discipline and Appeal Rules are now referable to that authority. Attention is invited to Rule 31A of the Bombay Civil Services Conduct, Discipline and Appeal Rules, which deals with membership of associations upon certain conditi-ons. Presumably the rules now governing the recognition of associations of industrial employees and the rules contained in G.O.,P.& S.D.No. 1002/46 dated the 15th December 1947 are not made under this authority and are, therefore, non statutory in character. If that presumption be correct, the

question of these rules prevailing over the provisions of the Trade Unions Act as now amended does not arise. The Labour Court acting under section 28Z of the Trade Unions Act will not naturally be bound by these rules: and in any case, the fact that initially the associations was recognised by Government on the basis of certain rules would not be a relevant circumstance in deciding the issue whether recognition should be granted to that union for the purposes of the Trade Unions Act; particularly in so far as the rules lay down certain conditins such as not going on strike, etc, which are totally inconsistent with the scheme ofthe trade Unions Act and the privileges accorded to recognised Trade Unions thereunde , the Labour Court will naturally disregard them and will refuse to be bound by them.

3 I am, however, of opinion that it would be possible to make statutory rules under the authority of section 241(2)(b) of the same nature as Rule 31A of the Bombay Civil Services Conduct, Discipline and Appeal Rules, under which it would be feasible to permit or prevent membership of trade unions registered and recognised under the Trade Unions Act upon certain conditions. The expression "conditions of service" used in sub-section (2) of section 241 of the Governm of India Act is wide enough for that purpose.

4 However, it is necessary to point out that the question whether, having insiste upon the condition that the unions of industrial employees must be registered under

the Trade Unions Act, it is expedient to frame a rule which ineffect denies such trade unions the rights and privileges which are expressly or impliedly recognised by the Trade Unions Act would require further examin -tion.

5 In the case of unions of non industrial employees, recognition under the Trade Unions Act has not so far been insisted upon and I am given to understand that they have not so far been registered. It is a matter of policy for Government to consider whetherin the interests of security and stability of administration it may not be necessary to frame statutory rules regulating this particular aspect of the conditions of service of non-industrial Government employee

Id./P.M.L. 26/9/49

Remembrancer of Legal Affairs.

U.O. to P.& S.D. No. 10881 dated the 28th September 1949

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